

The Gazette of India

EXTRAORDINARY

PART I—Section 1

PUBLISHED BY AUTHORITY

No. 368] NEW DELHI, WEDNESDAY, AUGUST 27, 1952

ELECTION COMMISSION, INDIA

NOTIFICATIONS

Allahabad, the 18th August 1952

In pursuance of the provisions of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information

IN THE COURT OF THE ELECTION TRIBUNAL, ALLAHABAD

Present Sri V. G Oak, ICS, Chairman

ELECTION PETITION No 198 of 1952

Pandit Govind Malaviya s/o Pandit Madan Mohan Malaviya deceased, r/o
P.O. Lanka, Banaras City, Uttar Pradesh *Petitioner.*

Versus

1. Shri Murli Manohar, s/o Shri Sheo Prasad Lal deceased, resident of Ballia City, U P
2. Shri Baldeo Upadhyaya Vakil, s/o Shri Govind Upadhyaya deceased, r/o Ballia City, U P
3. Shri Ram Vyas Shastri Jyotishacharya r/o Assi, Banaras City, U P
4. Shri Kedar Nath Pandey Vakil, s/o Shri Dharmraj Pandey, r/o Ballia City U P
5. Shri Sheo Dan Pandey, Advocate, Ballia City, C.P.
6. Shrimati Usha Malaviya, w/o Shri Govind Malaviya, r/o P O Lanka, Banaras City, U P
7. Shri Sheo Prasad, s/o Shri Bishun Prasad, r/o Ballia City, U P.

Respondents.

The above named petitioner prays as follows.—

1. That the petitioner was a candidate for election to the House of the People from Ballia (East) Constituency during the last election and the petitioner is enrolled as an elector, No 1802 of list No 160 Part B Patwari Circle University Tahsil Banaras District Banaras of the State Legislature Assembly Constituency Banaras City (South) No 259, and Parliamentary Constituency Banaras District Central No. 50.

2 That the respondents were also candidates for the election to the House of the People of Indian Union from Ballia (East) Constituency in the last election and were nominated.

3 That out of the respondents Shri Kedar Nath Pandey, Shri Sheo Dan Pandey, Shrimati Usha Malaviya and, Shri Sheo Prasad, respondents No. 4, 5, 6 and 7 withdrew from the election within the prescribed time.

4. That only the respondents No. 1, 2, 3 and the petitioner contested the election.
5. That the respondent No. 1 was declared elected and the fact of his election was published in the Official Gazette of Government of India on the 27th of February, 1952.
6. That the election of respondent No. 1 is void because it has been procured and induced by corrupt and illegal practices indulged in by the respondent No. 1 and his agents.
7. That the election of the respondent No. 1 is void because the respondent No. 1, his agents and other persons with the connivance of the respondent No. 1 were guilty of a number of corrupt practices specified in section 123 of the Representation of People's Act.
8. That there has been a number of non-compliances with the provisions of the said Act and election rules. Hence the election is void.
9. That the nomination of the respondent No. 1 was quite illegal as he holds an office of profit under the Government as a retained Government Railway Pleader and this improper acceptance of nomination of respondent No. 1 has materially affected the result of election.
10. That the result of election has been materially affected by various corrupt and illegal practices committed by respondent No. 1, his agents and other persons under the influence of and with the connivance of the respondent No. 1.
11. That the respondent No. 1 is the president of the Managing Committee of Town Higher Secondary School, Ballia and Shri Mata Buksh, the Principal of the said school and his subordinates are under the direct control and influence of the respondent No. 1.
12. That Shri Mata Buksh the Principal and Shri Chandrika Prasad Sinha, a teacher of the same school were presiding officers at Dighar and Sonharsa polling stations respectively on the 31st January, 1952.
13. That the respondent No. 1 as president of the said Town Higher Secondary School induced Shri Mata Buksh and Shri Chandrika Prasad the above-named persons to help the respondent No. 1 by breaking open the ballot boxes of the petitioner and which in fact they did and swelled the number of ballot papers of the respondent No. 1.
14. That Shri Kanhya Lal Shrivastava, brother of Shri Kesho Lal, a clerk of respondent No. 1, who is a criminal practitioner in Ballia, is wholly under the influence of the respondent No. 1.
15. That the said Kanhya Lal was the presiding Officer at Dumarla and he under the inducement of the respondent No. 1 illegally put in 600 unpolled ballot papers *in serialim* in the ballot boxes of the respondent No. 1.
16. That the presiding Officer of Reoti Polling Station who was in league with the respondent No. 1 did not seal the ballot boxes in the presence of the agents of the candidates and did not allow the agents to work at the polling booths except those of the respondent No. 1 up to 10 A.M. The said polling officer also personally induced the voters to vote for the respondent No. 1 at the polling booth.
17. That on booth No. 1, specially meant for females at Reoti Polling station, the female polling officer took the ballot papers of voters and herself put the ballot papers into the ballot boxes of the respondent No. 1. The Presiding Officer did not listen to the complaints in this behalf made to him. Ultimately it was brought to the notice of the Returning Officer who happened to visit the polling station later in the day.
18. That there was repoll at certain polling stations by the order of the Election Commission.
19. That on the repoll day on 14th February, 1952 the respondent No. 1 employed a Motor car No. U.P.G.130 to carry electors at Khawaspur to and from the polling station and thus committed a corrupt practice.
20. That the respondent No. 1 and his agents bribed the voters to cast their votes in favour of the respondent No. 1.
21. That the respondent No. 3 knew full well from the very beginning that he had no chance and was disposed to withdraw from the contest but the respondent No. 1 induced the respondent No. 3 by paying money to him to contest the election in order to divide the votes of the petitioner and this has materially affected the election.

22. That the respondent No. 1 being the president of the District Patwari Association, Ballia took active assistance from the Patwaris who are Government servants for the furtherance of his election prospects.

23. That in particular, the Patwaris of Sher Khawanspur Sonbarsa, Haripur Midhi and Bijaipur etc. were induced by the Respondent No. 1 to actively work for the respondent No. 1.

24. That the Patwaris procured a large number of votes for the respondent No. 1 threatening the electors to injure them by making wrong entries if they would not vote for the respondent No. 1. In this connection one Patwari Krishna Dutta of village Sher was suspended.

25. That the respondent No. 1 being the Chairman of the Municipal Board, Ballia offered illegal inducements to the electors of village Inderapur and Cheruiyan to cast their votes for the respondent No. 1 by constructing a pole bridge over the river Sarju with the funds, labour and materials of the Municipal Board, Ballia by abusing the position of the Chairman, Municipal Board, Ballia.

26. That the ballot boxes of petitioner of the polling station Duha—Bihra No. 66 and of Polling Station Qazipur No. 76 were found broken and tampered with before the commencement of counting and the Returning Officer was requested to stop the counting and to order for repoll under section 58, but it was rejected illegally.

27. That at Polling Station Chandpur wrong ballot papers were issued to the voters which materially affected the result of the election.

28. That the respondent No. 1 manipulated to issue false pamphlets in the name of the persons who really did not know them and never gave their consent for their publication.

29. That the respondent No. 1 manipulated to issue false pamphlets with wrong allegations against petitioner and got their circulation in the constituency with an evil motive to lower the prestige of the petitioner and thus secured supporters for himself.

30. That in fact the petitioner received majority of valid votes and but for the votes obtained by the respondent No. 1 by corrupt and illegal practices and as result of irregularities and non-compliances of rules during the election, the petitioner would have been duly elected.

31. That the return of the election expenses filed by the respondent No. 1 is not according to rules.

32. That the said return is wholly false and is not supported by genuine and proper receipts and vouchers.

Prayer

A. The petitioner prays for the following among other reliefs that the election of the respondent No. 1 as member of the House of People of the Indian Union be declared void and the petitioner be declared duly elected for the said House.

Or

B. That the election of the Respondent No. 1 be declared void.

C. That the cost of the proceedings incurred by the petitioner be awarded to the petitioner against the respondent No. 1.

D. That any other and further relief to which the petitioner be found entitled before the Tribunal be granted to him.

(Sd.) GOVIND MALVIYA, *Petitioner.*

I verify that the contents of this petition are true to my knowledge and belief.

(Sd.) GOVIND MALVIYA—23-4-52.

V. G. OAK, I.C.S., *Chairman*—18-8-52.

The list with full particulars of corrupt and illegal practices committed by the respondent No. 1, his agents and other persons with his connivance.

1. The nomination paper of the respondent No. 1 as a candidate for the House of the People was quite illegal as he was at the time of nomination, a Railway Pleader and held an office of profit under the Government, which post he still holds. The Returning Officer illegally ruled out the said objection raised at the time of nomination and improperly accepted his nomination which has materially affected the election.

2. The result of the election has been materially affected by corrupt and illegal practices committed by the respondent No. 1, his agents and other persons under his influence and with the connivance of respondent No. 1 as will be evident from the facts detailed.

3. The respondent No. 1 is the President of the Town Higher Secondary School, Ballia. Shri Mata Buksh the Principal of the said institution is a man under the thumb of the Respondent No. 1. Shri Mata Buksh was the Presiding Officer on the 31st of January, 1952 at Polling Station Dighar. He purposely did not deliver charge of the ballot boxes of his polling station to the Police Guard concerned and took the boxes with him to Sher at the house of Kishun Dutt, a Patwari who has been suspended for actively helping the respondent No. 1 along with the guard where he stayed for the whole night. There he broke open the boxes and succeeded in changing a good number of ballot papers in favour of the respondent No. 1.

4. Shri Chandrika Prasad Sinha, a teacher in the said Town Higher Secondary School, Ballia is a man under the direct influence of respondent No. 1. The said Shri Chandrika Prasad was a Presiding Officer at Sonbarsa Polling Station on the 31st of January, 1952. He too under the influence of respondent No. 1 did not give charge of the ballot boxes to the guard concerned after the election and took them to the house of Shri Raghu Nath Prasad of Sonbarsa, a relation of his and detained them there in the night in spite of a written protest by the petitioner and others. In the night the said Chandrika Prasad broke open the boxes and took out the ballot papers from the boxes of the petitioner and put them into the boxes of the respondent No. 1.

5. That Shri Kesho Prasad is clerk of the respondent No. 1 who is a criminal practitioner in Ballia. Shri Kanhya Lal, Sub-Deputy Inspector of Schools, Ballia, is a brother of the said Kesho Prasad. Shri Kanhya Lal was the Presiding Officer at Domaria on the 31st January, 1952. The said Presiding Officer has been under the influence of the respondent No. 1. At the said polling station actually only 920 votes were polled but the Presiding Officer Shri Kanhya Lal with the connivance of the respondent No. 1 managed to put 600 more unpolled ballot papers (*in seriatim*) into the ballot boxes of the respondent No. 1 as detailed below:—

A/37 927401 to 927600

- A/37 928601 to 928700

A/37 928701 to 928800

A/37 928401 to 928500

6. At Baragaon Polling Station too a similar attempt was made by the Presiding Officer to increase the votes of respondent No. 1 by 1650 votes.

7. That the Presiding Officer on the 31st January, 1952 at Reoti Polling Station was a man under the influence of the respondent No. 1. He did not seal the ballot boxes in the presence of the agents of the candidates before the election began and did not admit agents of other candidates except those of the respondent No. 1 at the Polling booth up to 10 a.m. He himself was illegally canvassing for the respondent No. 1.

8. The booth No. 1 at the polling station Reoti was for female voters. The polling Officer a lady being under the influence of the respondent No. 1 used to take the ballot papers from the hands of the voters and herself was putting them in the ballot boxes of the respondent No. 1. It was really difficult to stop the illegality and corrupt practices at this polling station, because the presiding Officer being in league with the Respondent No. 1 did not listen to the complainants. The matter was brought to the notice of the Returning Officer who reached there at 2 p.m.

9. The respondent No. 1 had hired a motor car No. U.P.G 130 for his election purposes besides other vehicles and his own car. On 14th February 1952, the said hired car was used by the agents of respondent No. 1 with his consent and connivance for the conveyance of the electors to and from the Polling Station Khawaspur. A protest was made in writing to the Presiding Officer on the spot.

10. That the respondent No. 1 and his agents freely on extensive scale bribed the voters to cast their votes in favour of the respondent No. 1.

11. That the respondent No. 3 is a resident of village Dokti Pargana Doaba. Shri Kedar Nath Sinha is a near relation of the respondent No. 1 and is intimately connected with the respondent No. 3 as his *Jazman* and his neighbour. The respondent No. 3 knew from very beginning that he had no chance of success and was inclined to withdraw from the contest, but the respondent No. 1 through Shri Kedar Nath Sinha bribed and persuaded the respondent No. 3 to stand for the election in order to divide the votes of the petitioner.

12. The respondent No. 1 is the President of the District Patwari Association, Ballia and he wields a great influence over the patwaris of the district. The Patwaris who are the Government servants gave active assistance to the respondent No. 1 in furtherance of the election prospects of the respondent No. 1. Complaints were made in several cases to the proper authorities. Kishun Dutta a Patwari of village Sher Pargana Ballia was suspended in this connection.

13. The Patwaris of the constituency in question in order to help the respondent No. 1, threatened the electors that if they did not cast their votes in favour of respondent No. 1 they would injure them by making false entries against them in papers.

14. The respondent No. 1 is the Chairman of Municipal Board, Ballia. He induced the voters of village Indrapur and Cheruyia to vote for him by constructing a pile bridge with funds, labour and materials of the Municipal Board, Ballia. The matter was reported to the District Magistrate, Ballia.

15. At the time of counting of votes the ballot boxes of the petitioner of booth No. 2 of the polling station Doha Bihra No. 66 and of booth No. 3 of the Polling Station Qazipur No. 76 were found broken and tampered with. The matter was brought to the notice of the Returning Officer for compliance of the rule 46 of the Act to postpone the counting and order for a repoll under section 58; but the Returning Officer illegally refused to do so and proceeded with the counting.

16. That the Presiding Officer of Chandpur was in league with respondent No. 1. There with the connivance of the Presiding Officer and the respondent No. 1, the Polling Officer gave to the voters ballot papers of the Legislative Assembly in place of the ballot papers of the House of the People and *vice versa* with the result that large Number of votes (228) cast for the petitioner were declared invalid which materially affected the result of the election.

17. The respondent No. 1 issued pamphlets in name of persons supporting his candidature who had never signed or given their consent for such publication and thus mislead voters to cast votes for respondent No. 1.

18. That the respondent No. 1 manipulated to publish pamphlets with wrong and false allegations against the petitioner and got them circulated in the constituency in question with the evil motive of influencing the voters against the petitioner. This trick of the respondent No. 1 materially affected the result of the election

(Sd.) GOVIND MALAVIYA

I, verify that the contents of this petition are true to my knowledge and belief.

(Sd.) GOVIND MALAVIYA.

23-4-52.

V. G. OAK, I.C.S., *Chairman*.

18-8-52.

In pursuance of the provisions of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81, thereof is published for information.

IN THE COURT OF THE ELECTION TRIBUNAL, ALLAHABAD.

President: Sri V. G. Oak, I.C.S., *Chairman*.

ELECTION PETITION No. 246 of 1952.

Shanker Tripathi, son of Mahadeo Tripathi, village Dhanapur, P.O. Gopigunj, Distt. Banaras (U.P.) a candidate for the House of People from Mirzapur Distt. Cum Banaras (West) Double member constituencyPetitioner.

Versus.

- | | |
|--|----------------|
| 1. The Returning Officer, Mirzapur District Cum Banaras District (West). Double member Constituency | } Respondents. |
| 2 J. N. Wilson, a member of House of People from Mirzapur District Cum Banaras District (West) Double member Constituency. Address: Mussaffargunj, P.O. City Mirzapur City | |

3. Vijaya Nand, village and post office Sikar (Chunar) District Mirzapur.
4. Hari Shankar, Mohalla Badli Katra, H.N. (C-1) 18/100 Mirzapur.
5. Brahma Datta, Dikshit-Wellslyganj, H.N. 117215 Mirzapur City.
6. Arjun, village Pura Tikka, P.O. Gopigunj, Teh. Gyanpur, District Banaras.
7. Bishwanath (S.C.) Mohalla Wellslyganj, H.N. 13/98, Mirzapur Municipality.
8. Parshotam (S.C.) Mohalla Sabari, Mirzapur Municipality.
9. Kunjan (S.C.) village, Sarri Tekaur Patwari Circle. Khairuddinpur, P.O. Chunar, District Mirzapur.
10. Rup Narain (S.C.) village Parsipur, P.O. Mirza Murad, District Banaras.

other
respondents

Election Petition under Section 84(b) of the Peoples Representation Act, 1951.
The Petitioner prays that:

1. Returning Officer broke the Rule 44 para 1, 2 and 3, of Conduct of Election and Election Petitions 1951 as well as Article 14 of Fundamental Rights of Indian Constitution.

2 The cause of the repoll was not made known to Candidate which is against the spirit of Sec. 58(2) as well as according to Rule 12 three days time was not given to Candidate to appoint his Polling agents. This is against Sec. 58(3) and is a clear breach of Rule 12 of appointment of Polling agents and is also against the Art. 14 of Fundamental Rights of Indian Constitution.

3. The Assistant Returning Officer did not observe timing fixed by the Returning Officer, nor followed any procedure laid down for counting. This is again a breach of Rule 44 para 2 and 3 as well as Rule 46 of Conduct of Election and Election Petitions 1951 as is also against the Officials Conduct Rules Sec. 136 Sub. Sec. (f) and (g) of Peoples Representation Acts 1951.

4. Electoral Offence for which the Returning Officer must be held sole responsible.

5. Illegal practices, Major Corrupt practices and Minor Corrupt practices may be treated jointly as an act having been committed in order to get Congress Candidate elected is utter disregardence of the Rules of the Peoples Representation Act, 1951.

6. A treasury Challan of Rs. 1,000 is enclosed herewith as provided under the Law.

7. I claim no relief from other respondents serial No. 3 to 10 above.

8 The full particulars of the case and the statement as required under the law have been given in attached seven pages from serial No. 3 to 8 para. No. 1 to 18 which may please be treated as the annexure of the case.

In view of the above stated facts I pray that the case according to Sec. 84(b) of the Peoples Representation Acts of 1951 be admitted.

I pray that the election of the returned candidate be declared void according to Sec. 100 (2)(c) and on his place the petitioner be duly elected according to Sec. 101(b) of the Peoples Representation Act of 1951.

Yours faithfully,

Sd/- SHANKAR TRIPATHI,
Village Dhanapur,
P.O., Gopigunj
District Banaras, U.P.

Dated the 6th May, 1952.

I, Shankar Tripathi, do hereby verify that the contents of this Petition paragraphs 1 to 5 are true to my personal knowledge and paragraphs 6 to 8 are true to the best of my information received and believed to be true.

(Sd.) SHANKAR TRIPATHY,
6-5-1952.

V. G. OAK, *Chairman*.
18-8-1952.

1. On 30th January 1952 I received the following notice by ORDINARY POST.

Notice is hereby given that counting of votes in respect of the Mirzapur district cum Banaras district (West) House of People Constituency will be done by the undersigned from 10 A.M. to 1 o'clock in the afternoon and thereafter from 2 o'clock to 5 in the afternoon at the places and dates noted below :—

Place—Mirzapur Collectorate.

Name of State Assembly Constituency.	Date.
1 Chunar (North)	February 3, 1952.
2 Chunar (South)	February 3, 1952.
3 Mirzapur (South)	February 4, 1952.
4 Mirzapur (North)	February 5, 1952.
5. Dudhi cum Robertsganj	February 6, 1952

Place—Banaras Collectorate

6 Gyanpur [East]	}	February 8, 1952.
7 Gyanpur [North West]		

29th January, 1952.

Copy to—Candidates concerned for information.

N. S. SIROHI,
Returning Officer, Mirzapur.

29th January, 1952.

N. S. SIROHI,
District Officer, Mirzapur.

2. The counting was postponed on the day the 3rd of Feb. 1952, previously fixed for the counting, the notice of which was sent by *ordinary post* earlier and according to which I was present at the place of counting. The counting was postponed without giving any reason thereto.

The rule 44, Paras. 2 and 3 run as follows—

(2) The Returning Officer SHALL give notice of such date, time and place in WRITING to all candidates and their counting agents.

(3) If at the time so appointed for the counting of votes, all the ballot boxes used at the poll have not been received by the Returning Officer, or if from any other unavoidable cause is unable to proceed with the counting of votes at the time and date appointed under sub-rule (1), the Returning Officer MAY postpone the counting to another date and time, and may fix, if necessary, another place for the counting of votes on the date to which the counting has been so postponed, AND SHALL GIVE NOTICE THEREOF IN WRITING TO THE CANDIDATES and their counting agents.

2A. Therefore the Returning Officer broke the law in not serving the notice of postponement to me in writing by Para. 3 of Rule 44, Appointment of time, place and date for the counting of votes of Representation of People (Conduct of Elections and Election Petitions) Rules 1951.

2B. And because of that I was deprived with the equality before the law or with the equal protection of the laws within the territory of India. Therefore my Fundamental Right was infringed which has been granted by the Indian Constitution by Article 14 the Rights of equality or equality before the law, which runs as follows :—

Article 14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

3. In the afternoon of 12th February 1952, I received the following notice by a Chaprasi of Gyanpur (Bhadohi) Tehsil—

Notice under section 58 (3) of the Representation of the People Act, 1952.

In accordance with the directions of the Election Commission, New Delhi, a re-poll will be held at noted below booth, Polling Station noted below on February 14, 1952, in the same building or at the same place where the polling was last held. The hours of re-poll will be from 8 A.M. to 12-30 P.M. and 1-30 P.M. to 5 P.M. I therefore, do hereby give notice of this to you. A list of validly nominated candidate is enclosed herewith.

You are now required under Rule 12 of the Representation of the People (Conduct of Election and Election Petitions) Rules 1951 to appoint polling Agents for the said polling Station or booth.

*Asstt. Returning Officer,
Mirzapur Distt. cum Banaras Distt. West,
Banaras.*

Dated.....

To

Shri Shankar Tripathi,
Village Dhanapur,
P. O. Gopiganj, Distt. Banaras.

Section 58 (3) runs as follows—

Section 58, sub-section (3)—In every such case as aforesaid the Returning Officer shall take a fresh poll in such or every such polling station or in such place fixed for the poll as aforesaid on the day appointed by him, and shall notify the days so appointed and the hours of polling so fixed by him in such manner as the Election Commission may direct, and the provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

4. This notice of the Assistant Returning Officer is in direct contravention of the previous notice of Returning Officer which was served to the candidate by ordinary post on 31st January 1952, stating that counting will be done from 3rd February, 1952, according to which the candidate was present at the place of counting. The counting was postponed without giving any reason thereto. Therefore the Second notice of Assistant Returning Officer which is also after the interval of 10 days clearly establishes beyond any doubt that the Returning Officer broke the law in not serving the notice of postponement of counting to the candidate in writing as provided under para. 3 of Rule 44, the Conduct of Election and Election Petitions 1951 and thus the candidate was deprived with his Fundamental Rights granted under Article 14 of Indian Constitution.

5. Now when we consider the second notice of Assistant Returning Officer served on 12th February 1952, stating that there will be a re-poll on 14th February 1952, we have to see what is the cause of this re-poll. Section 58(1) runs as follows—

Section 58. Fresh poll in case of destruction, etc. of ballot boxes—(1) If at any election any ballot box or boxes is/are unlawfully taken out of the custody of the Returning Officer or of any presiding officer, or is or are in any way tampered with, or is or are either accidentally or intentionally destroyed or lost, the election to which such ballot box or boxes relate shall be void, but only in respect of the polling at the polling station or stations provided under section 25 or the place fixed under sub-section (1) of section 29 for the poll, as the case may be, at which such ballot box or boxes was or were used and no further.

6. According to Section 58(2) the Returning Officer shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, REPORT THE MATTER TO THE APPROPRIATE AUTHORITY and to the Election Commission but—

Here the Returning Officer Reported the matter to Election Commission but did not do it to Candidate. Report to appropriate authority may also mean report even to Candidate, but the Candidate was not informed

what was the cause for this re-poll. Therefore according to Section 58(3) the re-poll is illegal and should not be given recognition as under the law.

7. The Second paragraph of notice of Assistant Returning Officer which was served on 12th February 1952 that there will be held a re-poll on 14th February 1952 says—

"You are now required under Rule 12 of the Representation of the People (Conduct of Election & Election Petition) Rules 1951 to appoint polling Agents for the said polling station or booth".

8 The Rule 12 runs as follows—

12. Appointment of polling agents—(1) At an election at which poll is to be taken and the method of voting by ballot boxes is to be followed, each validly nominated candidate, or his election agent, may **AT LEAST THREE DAYS BEFORE** the commencement of the poll appoint under Section 46 one agent and two relief agents to act as polling agents of such candidate at each polling station, or where a polling station has more than one polling booth, at each such polling booth, or at the place fixed under sub-section (1) of section 29 for the poll, as the case may be and such appointment shall be made by a letter in writing in duplicate in Form 4 signed by the candidate or his election agent.

9. The Asstt. Returning Officer broke the Rule 12, as according to it at least three days time is required for the appointment of election Agents, whereas by serving notice on 12th February, 1952, that there will be re-poll on 14th February 1952, I was given only 2 days time. Therefore it is clearly established that I was deprived with my Fundamental Rights of appointing the election Agents. And thus Election became one sided affairs which is void according to the law.

10. On February 17, 1952, I received the following notice by ordinary post.

Notice is hereby given that counting of votes in respect of the Mirzapur district cum Banaras district (West) House of People Constituency will commence from February 19, 1952. Counting hours will be from 10 A.M. to 1 o'clock in the afternoon and thereafter from 2 o'clock to 8 in the afternoon at the following places—

Place.—Mirzapur Collectorate.

Portion of the H. P. Constituency comprising of State Assembly Constituencies Chunar (North), Chunar (South) Mirzapur (South), Mirzapur (North) and Dudhi cum Robertsganj.

Place.—Banaras Collectorate/Tahsil.

Portion of the H. P. Constituency comprising of State Assembly Constituencies Gyanpur (East) and Gyanpur (N.W.)

Counting at Banaras will be done by the District Election Officer, Banaras who is the Assistant Returning Officer for the above H.P. Constituency.

MIRZAPUR,

N. S. SIROHI,

The 15th February, 1952.

Returning Officer.

Copy to

1. Candidates concerned for information.

2. Copy to District Election Officer Banaras for information and necessary action please.

N. S. SIROHI,

Returning Officer.

Mirzapur.

11. The Asstt. Returning Officer of Banaras who conducted the counting according to this notice from Feb. 19, 1952 not only did not observe timing fixed by Returning Officer, but he even disregarded the whole procedure of counting. This is against the provision of Rule 44 appointment of timing as well as a breach of counting Rule 46 Conduct of Elections and Election Petitions 1951.

I request that the Action of this official be considered as a breach of Officials Conduct Rules Sec. 136 sub-secs. (f) and (g) of Peoples Representation Act, 1951.

ELECTORAL OFFENCES

12. The Teachers of Bhadohi Sub. Div. which is the part of Banaras Distt. (West) in this H.P. Constituency were employed on official duties according to Article 324 but were not allowed to vote by postal ballot papers, as the postal ballot papers were not issued to them.

Therefore teachers were debarred from exercising their right of franchise and this is against the provision of Sec. 62 Right to vote of Peoples Representation Acts 1951. It also comes under the meaning of Sec. 129 sub sec. 2 (b) persuading any elector not to vote at the election.

ILLEGAL PRACTICES

13. An offence under Sec. 125 which is under investigation now, will be added during the course of the trial.

14. A detailed statement will be submitted regarding the return of election expenses the investigation of which has not yet been completed.

MAJOR CORRUPT PRACTICES

15. Undue influence was exercised upon me not to stand in election and withdraw from election by Mr. Uma Datta Vaidya a proposer or seconder of the nomination paper of Mr. J. N. Wilson from his behalf, which is against Sec. 123 (1)(a) of Peoples Representation Acts 1951.

16. Undue influence was exercised by Mr. J. N. Wilson, the Congress Candidate, upon the leaders of Muslim community to vote on a particular line. Mr. Wilson himself told me of this on 20th February 1952, while he took me in his Jeep from Mirzapur to Banaras where the counting was being conducted. Pt. Pranava of Mirzapur who was also in the Jeep may be taken as witness. This is against Sec. 123(2)(i) of Peoples Representation Act 1951.

17. The use of air plain be considered as a major corrupt practice. The idea of it was to use the plain before one or two days earlier from polling days and drop the leaflets containing an appeal with the symbol from above the sky so that illiterate people may take it as a command from above the God and vote to Congress without a moment's thought. The words under Sec. 123(2)(ii) that—"will be rendered an object of divine displeasure or spiritual censure" if any meaning it had for this, especially considering the backwardness of the large parts of the areas of this district. The very idea as stated above was confirmed by Mr. Wilson himself after the election was over on 20th February 1952, when I was in his Jeep from Mirzapur to Banaras with Pt. Pranava also accompanying. Therefore the use of Air Plain for dropping the leaflets containing the appeal to vote to the congress with a symbol printed on it be considered as a major corrupt practice according to Sec. 123(a)(ii) of Peoples Representation Act, 1951.

MINOR CORRUPT PRACTICES

18. Systematic appeal was made by Congress members to vote to Mr. Wilson because he happened to be a member of minority community. This is against Sec. 123(a)(ii) of Peoples Representation Acts 1951.

19. On the whole the following main points are the basis of this case—

1. Returning Officer broke the Rule 44 paras. 2 and 3 of Conduct of Election and Election Petitions 1951 as well as Article 14 of Fundamental Rights of Indian Constitution.
- 2 The cause of the re-poll was not made known to Candidate which is against the spirit of Sec. 58 (2) as well as according to Rule 12 three days time was not given to candidate to appoint his polling agents. This is against Sec. 58 (3) and is a clear breach of Rule 12 of appointment of polling agents and is also against the Art. 14 of Fundamental Rights of Indian Constitution.
3. The Asstt. Returning Officer did not observe timing fixed by the Returning Officer, nor followed any procedure laid down for counting. This is again a breach of Rule 44 paras. 2 and 3 as well as Rule 46 of Conduct of Election and Election Petitions 1951 as is also against the Officials Conduct Rules Sec. 136 and sub-sec. (f) and (g) of Peoples Representation Act 1951.
4. Electoral Offences for which the sole responsibility rest with the Returning Officer.

5 Illegal practices, Major Corrupt practices and Minor Corrupt practices may be treated jointly as an act having been committed in order to get Congress Candidate elected in utter disregardness of the Rules.

In view of the above stated facts I request you Sir, to admit this case according to Sec. 84 (b) of the Peoples Representation Act of 1951.

I pray that the election of the returned candidate be declared void according to Sec. 100 (2) (c) and on his place the petitioner be duly elected according to Sec. 101 (b) of the Peoples Representation Act of 1951

Yours faithfully,

SHANKAR TRIPATHI,
Village Dhanapur,

Dated 6th May, 1952

P.O. Gopiganj Dist. Banaras U.P

I, Shankar Tripathy, do hereby verify that contents of this list paragraphs 1 to 12 and 15 to 19 are true to my personal knowledge and paragraphs 13 to 14 are true to the best of my information received and believed to be true.

V. G. OAK, Chairman

(Sd.) SHANKAR TRIPATHI

Dated 6th May, 1952.

Dated 18th May, 1952

[No. 19/198/52-Elec.III.]

P. N. SHINGHAL,
for Chief Commissioner

